

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>QWEST COMMUNICATIONS CORPORATION,</p> <p style="text-align:center">Complainant,</p> <p style="text-align:center">vs.</p> <p>SUPERIOR TELEPHONE COOPERATIVE; THE FARMERS TELEPHONE COMPANY OF RICEVILLE, IOWA; THE FARMERS & MERCHANTS MUTUAL TELEPHONE COMPANY OF WAYLAND, IOWA; INTERSTATE 35 TELEPHONE COMPANY, d/b/a INTERSTATE COMMUNICATIONS COMPANY; DIXON TELEPHONE COMPANY; REASNOR TELEPHONE COMPANY, LLC; GREAT LAKES COMMUNICATION CORP.; AND AVENTURE COMMUNICATION TECHNOLOGY, LLC,</p> <p style="text-align:center">Respondents;</p> <hr/> <p>REASNOR TELEPHONE COMPANY,</p> <p style="text-align:center">Counterclaimant,</p> <p style="text-align:center">vs.</p> <p>QWEST COMMUNICATIONS CORPORATION AND QWEST CORPORATION,</p> <p style="text-align:center">Counterclaim Respondents.</p>	<p>DOCKET NO. FCU-07-2</p>
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**ORDER DENYING REQUEST TO TEMPORARILY STAY PROCEEDINGS,
GRANTING MOTION TO EXTEND TIME,
AND GRANTING REQUEST FOR INTERVENTION**

(Issued October 22, 2007)

On September 7, 2007, Audiocom, LLC (Audiocom), filed a motion to modify and quash the document and deposition subpoenas served upon Audiocom by Qwest Communications Corporation (QCC). In support of its motion, Audiocom states that it is not a party to this action and that QCC's subpoenas are overbroad and unduly burdensome. Audiocom cites to the Board's August 16, 2007, "Order Granting Motion to Withdraw and Granting Motions to Compel in Part and Denying in Part," issued in this docket, which, according to Audiocom, addresses the propriety of several discovery requests that are substantially similar to the requests served upon Audiocom.

On September 20, 2007, QCC filed a response to Audiocom's motion and a motion to compel the information requested in the subpoenas served on Audiocom. QCC states that Audiocom's objection to the subpoenas rests on the fact that the subpoenas request information regarding interstate calling, but the Board has determined that information about interstate traffic is relevant and discoverable in this proceeding. QCC also states that the discovery requests served on Audiocom are neither overbroad nor unduly burdensome and that Audiocom does not provide any factual basis to support its assertion.

On October 4, 2007, the above-named respondents in this proceeding filed a request to temporarily stay discovery and other proceedings in this matter so as to permit the parties to submit briefs identifying the extent to which a recent decision of the Federal Communications Commission (FCC) disposes of or narrows the issues in

this proceeding. The respondents state that the requested stay should not prejudice the parties and assert that the stay will likely be of limited duration.

Also on October 4, 2007, Audiocom filed a motion for an extension of time to submit a combined brief that replies to both QCC's response to Audiocom's motion and QCC's motion to compel. Audiocom states that it makes its request because Audiocom believes that the FCC's recent decision in *Qwest Communications Corp. v. Farmers and Merchants Mutual Telephone Co.*, FCC File No. EB-07-MD-01, issued October 2, 2007, may dispose of or narrow the issues before the Board in this proceeding. Specifically, Audiocom asks that the Board allow Audiocom an additional five business days after the respondents to this action submit briefs regarding the FCC's October 2, 2007, decision, if briefs are allowed by the Board, or an additional five business days from the issuance of the Board's denial order, to submit its combined brief.

On October 12, 2007, QCC filed a combined response to the respondents' motion to temporarily stay the proceedings and to Audiocom's motion for an extension of time. QCC states that it intends to seek reconsideration of the FCC's October 2, 2007, decision and that there are issues in this proceeding that are uniquely within the Board's jurisdiction that the FCC did not determine. QCC opposes the respondents' and Audiocom's motions, arguing that the requested stay is neither reasonable nor furthers a just resolution in this proceeding and that a delay would prejudice QCC's ability to meet the Board's established procedural schedule. QCC also asserts that the information it seeks from Audiocom is central to the issues

in this case and that the Board should not extend Audiocom's deadline to file a response to QCC's motion.

The Board has reviewed the order issued by the FCC and finds that a stay of the discovery process in this proceeding is not appropriate. There are issues involved in this proceeding that were not discussed or determined by the FCC in its October 2, 2007, order. No useful purpose would be served by staying the progression of this case for the purpose of receiving briefs from the parties regarding the FCC order. Moreover, QCC has indicated that it intends to petition the FCC for reconsideration of the decision. If the parties believe that some issues in this proceeding are resolved as a result of the FCC's order, then a motion requesting dismissal of those issues would be an appropriate remedy. Granting a stay of this proceeding would not further the resolution of all of the controversies identified in QCC's complaint and is not reasonable at this time. Therefore, the Board will not stay this proceeding as requested by the respondents.

Because the Board is denying the respondents' request to stay this proceeding, Audiocom's motion to modify and quash the subpoenas served upon it by QCC will go forward. Audiocom's reply to QCC's response to Audiocom's motion was due on or before October 4, 2007. The Board will grant Audiocom's request for an extension of time and will direct Audiocom to file a reply to QCC's response on or before October 29, 2007.

On October 16, 2007, AT&T Communications of the Midwest, Inc., and TCG Omaha (collectively referred to as "AT&T") filed with the Board a request to intervene in this proceeding. No objections to the petition to intervene have been filed.

In support of its petition to intervene, AT&T states that it has conducted its own investigation regarding the issues raised in QCC's complaint in preparation for a case currently pending before the U.S. District Court for the Southern District of Iowa, to which AT&T is a party. AT&T states that the Board's determination in this proceeding may have a direct impact on AT&T and that it is more efficient for AT&T, the parties, and the Board to allow AT&T to intervene rather than require AT&T to raise similar issues in a separate action before the Board.

The petition to intervene will be granted pursuant to 199 IAC 7.2(7)"d." As an intrastate and interstate toll provider in Iowa, AT&T has demonstrated a sufficient interest in these proceedings that should be represented.

IT IS THEREFORE ORDERED:

1. The motion to temporarily stay this proceeding filed by Superior Telephone Cooperative; The Farmers Telephone Company of Riceville, Iowa; The Farmers & Merchants Mutual Telephone Company of Wayland, Iowa; Interstate 35 Telephone Company, d/b/a Interstate Communications Company; Dixon Telephone Company; Reasnor Telephone Company, LLC; Great Lakes Communication Corp.; and Aventure Communication Technology, LLC, on October 4, 2007, is denied as described in this order.

2. The motion for an extension of time filed by Audiocom, LLC, on October 4, 2007, is granted as described in this order. Audiocom is directed to file a reply on or before October 29, 2007.

3. The petition to intervene filed by AT&T Communications of the Midwest, Inc., and TCG Omaha on October 16, 2007, is granted.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Margaret Munson
Executive Secretary, Deputy

Dated at Des Moines, Iowa, this 22nd day of October, 2007.